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1951-52 **File No.**

Legal Departm

G **BRANCH**

Subject:—

opinions on Indian

penal Code

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File No. 0/IPC/51

Gen. 194 e.

4

CONTENTS.

Legal Department File No. O.L.P.C./51.

Sr. No.	R.I. / O.No.	Subject	pages.
		Opinions under the Indian Penal Code.	
1)	15- Confl. 5/1/51.	Re: Information given by some person regarding party arranged by some one in contravention of food control orders xxxxx xxxx xxxxxxxxx prosecution of the person under sec. 182, I.P.C. information, on the ground that the information was false one.	1-8
2)	G-36 18-1-51.	1) Whether there is any law in existence which makes it obligatory on a manufacturer of, or dealer in butter to mark the package or tin containing butter with the correct weight of its contents and 2) Whether it can be laid down as a condition of licence granted for the purpose, that the containers of butter meant for export shall be marked with the correct net weight of their contents.	9-10
3)	G-120 2-4-51	Re: Application by certain person for a permit for purchasing an oil Engine for his own agricultural purposes. Prosecution for selling the Engine to another person without obtaining a permit from Government.	11-14.
4	G-155 21-4-51	Re- Prosecution of a person under sec-182, I.P.C. for falsely charging a Govt. servant for rude behaviour and also for bribery.	15-22.

2.	3.	4.
5).	C.No.G-189 18-5-51.	Re: Prosecution for contravention of the provisions of clause 7 of the Bombay Charcoal and Firewood Trade Licensing Order, 1949.	23-26.
6)	C.No. G-144/ 14.4.51.	Whether M/s. Arjumsa Habib and another can be held liable for attempting to cheat Govt. by falsely applying for quotas of yarn for and on behalf of M/s. Meherwade and Mannure without the consent and authority of the latter.	27-34.

S.I./17.7.56. Sc.

Office of the R.L.A.

Submitted.

2. Please see the note of the D.C.S. and the orders of H.M.C.S. thereon, on page 22 ante.

3. The facts of this case, in short, are as follows:-

4. On receipt of an information (in writing) on 19.4.50 from Shri N.L.Dalal, one of the Hony. Secys. of Cricket Club of India, That one shri M.P. Mehta was going to give a party at about 12-30 p.m. at on 21-4-50. to 70-80 guests in celebration of his son's marriage which was to be held on the same day in the evening, Shri Achrekar, the sub-Inspector of C.B. II, kept a watch on the residence of Shri Mehta from 11-30 A.M. on 21-4-50. Some people were found coming out and some going in. All the windows were closed and the entrance was guarded by watch man. Women Police Constables were sent to find out as to what was going on inside but they were not allowed access and snap shots of 2 of them were taken. All this was sufficient to raise suspicion in the mind of the Sub-Inspector and he, along with 2 Panchas, approached Shri. Mehta and disclosing his identity, asked him to allow him to search his residence. Before, however, allowing the Sub-Inspector to proceed further, Shri Mehta phoned the H.M.H.D. and the Sub-Inspector was asked by the P.A. to H.M.H.D. on phone that he should go according to law. A search of Shri Mehta's residence was made at about 2-00 p.m. but not hing suspicious was found as is evident from the Panchanama. 'Hom' ceremony was found to be in progress at that time. While the search was continuing the police party was on several occasions photographed.

Subsequent inquiries made by the Crime Branch II as to bonafides of Shri Dalal's information have revealed that Shri Dalal is on inimical terms with Shri. Mehta who has obtained decrees in 3 civil suits against him and whose son, Shri. ~~Surendra~~ Surendra Mehta is a prosecution witness in one of the 2 criminal cases in which Shri Dalal is involved. The Commissioner of Police has taken the view that Shri Dalal has given the above information, believing it to be false with intention to cause annoyance to Shri. Mehta. The Commissioner of Police has, as advised by the Chief Police Prosecutor, asked for formal permission of the Govt. to prosecute Shri Dalal under section 182 of Indian Penal Code.

6. The Civil Supplies Department has under order from the Honourable Minister, Civil Supplies, forwarded the case pps. to this office for opinion on the point.

S.I./13.7.56. 4c.

Office of the R.L.A.

The special circumstances of this case, as e.g., the presence of photographers, the absence of any ladies, the absence of any food, the closing of the windows and the strict watch by watchmen fully support the remark of the Police Commissioner that the persons concerned had got inkling of the fact that information had been supplied. These circumstances show that the information could not have been false. In any case, it will be difficult to establish in a Court of Law that shri Dalal knew or believed to be false the information which he gave. Unless that is proved, the question of intention or knowledge would not arise, and the previous enmity goes more to the intention than to the falsity of the information.

2. I would not, therefore, advice a prosecution.

P.M.L./4.1.

Remembrancer of Legal Affairs.

U.R. to C.S.D. No.15-Confl. dated 5th January, 1951.

S.I./13.7.56. 4c.

The question for R.L.A.'s consideration are:-

i) Whether there is any law in existence which makes it obligatory on a manufacturer of, or dealer in, butter to mark the package or tin containing butter with the correct weight of its contents; and

ii) Whether it can be laid down as a condition of licence given under the Government Notification No.MC/M-127-B, dated 13th May 1950 that the containers of butter meant for export shall be marked with the correct net weight of their contents.

Regarding the first question, there is no law in existence which makes it obligatory on a manufacturer of, or dealer in, butter to mark the package or tin containing butter with the quantity of its contents. However, if they make false marks on the packages, tins etc. showing more quantity than the actual contents thereof, they can be held liable under section 6 of the Indian Merchandise Marks Act, 1889 for applying a false trade description, and if they sell such falsely marked packages they can be held liable under section 7 of the said Act. Further if the manufacturers or dealers do not make any mark on the containers indicating the quantity of their contents but sell them after creating an impression, expressly or impliedly, on the minds of the purchasers that the containers contain more quantity of butter than that really contained therein, the manufacturers or dealers can be prosecuted under section 420 of the Indian Penal Code for for cheating the customers and thereby dishonestly inducing them to pay more money than they would have otherwise done.

Regarding the second question, the Civil Supplies Department Notification No.MC/M-127-B, dated 13th May 1950 bans the removal of butter by rail, road etc. from any place within the limits of the State of Bombay to any place in India outside the said limits except under and in accordance

with the conditions of the license granted by the Director of Civil Supplies, Bombay or the Milk Commissioner, Bombay, Bombay. Hence it is competent to the Director of Civil Supplies or Milk Commissioner to lay down a condition in the export license that the tins, packages etc. containing butter exported under the license shall be marked with the true and correct net weight of their contents.

P.M.L./18.1.

Remembrancer of Legal Affairs.

U.R. to M.S., No.G-36, dated the 18th January 1951.

S.I./13.7.56. 4c.

Please see the office note of Agriculture and Forests Department on page 23 ante.

2. The facts of this case are given in the letters dated 19.8.50 and 1.12.50 of the Sub-Inspector of Police Ahmedabad at pages 1 and 19 respectively. They may be summed up as follows:-

3. One, Shri Abdul Karim Nur Mohammed Munshi of Ahmedabad submitted an application for a permit for purchase of an oil engine to the Director of ~~XX~~ Civil Supplies, Bombay with the recommendation of the Collector and Chairman, District Rural Development Board, Ahmedabad District on 22.12.47. In the application it was stated by the applicant that he wanted the oil engine for his own agricultural purposes. The permit required by the applicant was granted to him by the Director of Civil ~~XXX~~ Supplies on or about 9.2.48 and on the strength of that permit M/s.Greaves Cotton & Co.Ltd. sold one Ruston Mark 4 YHR 20 H.P. Oil Engine to Shri Munshi on 21.10.48 for Rs.6074/15/-. After keeping the engine with himself for about 5 months, Shri A.N.Munshi sold it in the same packed condition to M/s. K.S.Munshi and M.M.Munshi in the month of March 1949 for Rs.6294/14/- who again sold the engine through a broker to Shri Mangaldas Keshavlal of Patanakura for Rs.15,000/-. No permit was issued by the Government for sale of the engine by either Shri A,N,Munshi or M/s.K.S. Munshi and M.M.Munshi.

4. The Agriculture and Forests Department thinks that Shri Munshi, by deceiving Government into belief that he

meant to use the engine for his own agricultural purposes which he did not intend to use/ has cheated the Government. The Agriculture and Forests Department has now forwarded the case papers to this office for R.L.A's opinion whether Shri A.N. Munshi can be successfully prosecuted on the charge of cheating.

S.L./13.7.55. 4c.

From A.N.Munshi's letter dated 28th November 1947 to the Director of Civil Supplies, Bombay and from his application in the prescribed form dated 9th December, 1947 for the oil engine it is clear that he obtained the engine by representing to Government that he wanted if for agricultural purposes and that it was required for erection in his survey numbers. He did not however use it and sold it in packed condition. A prosecution for cheating would lie only if it can be proved that he practised deception from the very inception in that he had no idea whatsoever of using it for his own agricultural purposes but intended to sell it. However, the fact that he sold it for the cost price would go in his favour and would show that he had no such idea of practising deceit at the inception but that he changed his mind later. In view of this there is not much possibility of a successful prosecution on this count.

However his prosecution would be feasible for breach of Agriculture and Rural Development Department Notification No.2088/A/F-1 dated 24th May 1948 if he has failed to furnish to the Secretary, Agriculture and Rural Development Department a statement of the oil engine sold by him. This notification was cancelled on 2nd February 1950 and if the purchasers viz. Shri K.S.Munshi and M.M.Munshi had also sold the engine before 2nd February 1950, they can likewise be prosecuted for failure, if any, to send a statement as required by the abovesaid notification.

Id/- / 3.4.

Additional Secretary to Government.

U.D. to A. & F.D., No. G-120, dated the 2nd April 1951.

S.L./13.7.56. 4c.

Office of the R.L.A.

Submitted.

2. Please see the office note of Civil Supplies Department on page 43 Ante.

3. The facts of this case, in short, are as follows:-

4. One, Shri Mancher Rajji Dange who has got a 5 H.P. grinding Mill at Dubere made a complaint to the collector of Nasik District on 15.6.50 wherein he stated -

(1) that when he went to the office of the Mamlatdar of Sinnar Taluka to receive the crude oil permit for which he had applied on 14.6.50, the clerks, M/s. Kulkarni and Joshi told him in a rudely manner that the permit had been sent to him by post; and

(2) that he did not receive the permit as it had been lost by the above named clerks who wanted money for it.

5. The complaint was sent by the Collector to the Mamlatdar of Sinnar for necessary enquiries, who after recording the ex statement of Mancher reported that applicant had made the complaint through some mis-understanding and that it might be filed.

6. The Collector asked the Prant Officer to make personal inquiries in the matter and report if it would be advisable to prosecute the complainant under section 182 of Indian Penal Code. The Prant Officer, recorded the statements of (1) Shri Mancher, (2) his brother, Shri Bahiru, and (3) the peon, Shri Narayan. Shri Mancher stated that the peon, Narayan (and not the clerks) had demanded money from him and had been paid

Rs.4/- by his brother Bahiru in his presence.

Shri Bahiru, supported the above statement of his brother, Shri Kanchar, but denied latter's (i.e. his brother's) presence at the time when the payment of Rs.4/- was made. The peon, Narayan while denying to have received any amount from the 2 brothers, stated that the charge of bribery levelled against him was false. The Front Officer submitted his report on 23-11-50 which said that as the allegations against the clerks were baseless and false and as there was no evidence to prove the fresh allegation against the peon, the complainant deserved to be dealt with under section 182 of Indian Penal Code.

7. The District Magistrate after seeking the advice of District Govt. Pleader, requested the Civil Supplies Department to accord him sanction to prosecute the informant. The Civil Supplies Department has before giving the necessary sanction, forwarded the case papers to this office for R.L.A's opinion whether such a prosecution would be feasible.

S.I./13.7.55. 4c.

Legal Department.

Even if technically a charge under section 182 Indian Penal Code can be sustained, having regard to the circumstances of the case it would not be advisable to sanction the prosecution. In view of the hardship suffered by the applicant due to delay in granting him the permit the Court would take a very lenient view of his ex conduct.

Id/-

Additional Secretary to Government.

U.R. to C.S.D., No.G-155, dated the 21st April 1951.

S.L./13.7.56, 4c.

Legal Department.

The circumstances in this case suggest that Shri Ayodhayprasad has committed offences punishable under section 419 and section 465, Indian Penal Code. Both these offences relate to an application for retailer's licence dated 27th January 1949 (page 1) made to the Licensing Authority under the Bombay Charcoal and Firewood Trade Licensing Order, 1949. That application purports to have been made by one Ramsunder Bhavani Sahai. On that application the licence was issued. It is now found and there is sufficient evidence on the point, that that application was not made by the said Ramsundar. The charcoal shop itself is run by one Ayodhyaprasad and certain anonymous applications received by the Director of Civil Supplies suggest that the application for licence was made by this Ayodhyaprasad who is actually conducting the shop.

The success of a prosecution against Ayodhyaprasad for the above two offences will depend on the proof whether the application was in fact made by Ayodhyaprasad From the record, it appears that there is no such proof available. The application is thumb-marked and nobody has attested that thumb-mark; nor is there any-thing in the record to suggest that the thumb-mark was made in the presence either of any officer or employee of the Department of Civil Supplies or in the presence of anybody else. There are in the record subsequent miscellaneous applications and statements dated the 18th March 1950 (page19) and the 5th April 1950 (page 21) purporting to be made by Ramsundar and bearing thumb-marks. It will, however, be not possible to prove that the thumb-mark on the application dated the 18th March 1950 was made by Ayodhyaprasad, though it may be possible to prove through the evidence of Ward Inspector Shri D.J. Mehta that the thumb- mark made on 5th April 1950 was acknowledged before him by one

person purporting to be Ramsunder. It does not appear however, that that person was Ayodhyaprasad. At any rate, even if these two subsequent applications and statements were proved to have been made by Ayodhyaprasad, they cannot help in proving that the application for licence dated the 27th January 1949 was made by Ayodhyaprasad. Therefore, this is a case where it will be difficult to prove those ingredients which are necessary to establish offences under section 419 and 465, Indian Penal Code.

As regards the question of prosecution for having contravened the provisions of clause 7 of the Bombay charcoal and Firewood Trade Licensing Order, 1949, in that he carried on the retail business in charcoal was without a licence on his name, that case also cannot be established. He was conducting the business at a shop for which a retail licence had been issued in the name of Ramsundar. Ramsunder in his statement has stated that Ayodhyaprasad was his servant. It would then be difficult to prove that Ayodhyaprasad was doing a business of his own without a licence.

Going through the record, it appears that Ramsundar and Ayodhyaprasad have now fallen out and this appears to be more or less a case arising from private grievances.

The prosecution of Ayodhyaprasad if launched is not likely to succeed as satisfactory evidence in support of it is lacking.

Id/-

Additional Secretary to Government.

U.R. to C.S.D., No. G-189, dated the 18th May 1951.

S.I./13.7.56. 4a.

The question for consideration is whether in view of the facts detailed in the last para of the Public Prosecutor's opinion at page 155, a prosecution for attempting to cheat Government would lie against M/s. Habib and Badigannavar.

From the Provincial Textile Controller's Circular letter at page 31 it is clear that Government had decided to release the accumulated stocks of yarn tothe handloom weavers and their Co-operative societies only. The Two applications received by the District Magistrate, Dharwar from Shri Habib and Badigannavar on behalf of Shri Mangure and Shri Merwade respectively were for 18½ bales and 20 bales of yarn, and as these quantities appeared unusually large for individual weavers, the District Magistrate caused inquiries to be made. It has transpired during the inquiries that both the consumer - weavers have not indented for yarn through Shri Habib or Badigannavar nor did they credit any amount with these persons for the same and that Shri Habib or Bqdigannavar applied in their names without their consent or knowledge (please see Enquiry Officer's report at p.12/21 of case papers placed below). It is true that they had khatas of these consumer weavers but from the facts it appears clear that they attempted to obtain yarn fraudulently from Government. There is therefore a prima facie case against them for attempting to cheat Government. The view taken by the Public Prosecutor, Dharwar at page 166 is correct.

Id/-

Additional Secretary to Government.

U.R. to P.T.C., No.G-144, dated the 14th April 1951.

S.I./13.7.56. 4c.